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C O N F I D E N T I A L SECTION 01 OF 02 NICOSIA 000959

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TAGS: PGOV PREL PHUM ECON TU CY

SUBJECT: TURKISH CYPRIOT PROPERTY COMMISSION MAKES FIRST OFFERS

REF: A. NICOSIA 716 AND PREVIOUS

1B. LIBBY-MELLINGER EMAIL (6/16/2006)

Classified By: Ambassador Ronald Schlicher, for reasons 1.4 (b) and (d)

11. (C) SUMMARY. A June 21 "TRNC Supreme Court" decision has upheld the Turkish Cypriot Property Commission, clearing the way for the new body to make its first round of restitution and compensation offers to Greek Cypriot owners of property in the north. It is unclear if the ECHR will accept the Commission as an "effective local remedy" for the violations of land owners' rights that date from 1974, however; the plaintiffs in the Xenides-Arestis test case have already made clear they will not accept the compensation offered to them by the Commission. The Property Commission faces constraints on its ability to return land to claimants -- and may also generate very high bills for Turkey and the cash-strapped "TRNC." But the prospect of Greek Cypriots receiving relief from a Turkish Cypriot institution with an ECHR stamp of legitimacy is an uncomfortable one for Greek Cypriot hard-liners and the GOC. END SUMMARY.

COMMISSION RULED "CONSTITUTIONAL"

12. (C) The Turkish Cypriot Property Commission saw two important milestones on June 21. In a late-morning announcement, the "TRNC Supreme Court" held the Commission was legal under the Turkish Cypriot "constitution." The nationalist opposition UBP had challenged the newly-established Commission (reftel), questioning the legality of provisions allowing the body to offer restitution of (as opposed to simple compensation for) Greek Cypriot land in the north. While most observers felt this challenge was primarily a political ploy and had little chance of success, the court decision to uphold the Commission removes the last internal legal obstacle to the new Turkish Cypriot property restitution and compensation scheme.

FIRST RESTITUTION AND COMPENSATION OFFERS ACCEPTED

13. (C) With its path clear of domestic hurdles, the Commission later that day announced its first formal compensation and restitution offers. The Commission offered to return several acres of currently unused land to two separate Greek Cypriot claimants in the northern town of Tatlisu (Akatu). A third Greek Cypriot claimant has been offered compensation for his property near Nicosia, which -- since it is currently home to several Turkish Cypriot families -- could not be returned under the terms of the law. While the amount offered has not been announced, sources inside the Commission told us privately that the compensation would amount to 250,000 Cyprus pounds (over 500,000 U.S. dollars). Press reports indicate that all three claimants accepted the offers made to them.

ARESTIS AND THE ECHR DIMENSION

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¶4. (C) In a parallel move, the Commission announced it had offered compensation in the amount of 1,610,000 YTL (just over a million U.S. dollars) to Myra Xenides-Arestis, the Greek Cypriot plaintiff whose case before the European Court of Human Rights prompted the "TRNC" to establish the Commission. (COMMENT: In 2005, the ECHR gave Turkey's "subordinate local authority" in Cyprus six months to establish "effective local remedy" that could provide relief in the Arrestis and other similar cases. The Court indicated that "effective" remedy would have to include the possibility of restitution, as well as compensation for lost property, damages, and loss of use. Turkey has given its full political -- as well as significant financial -- backing to the new Commission in an effort to defuse the 1600-plus property cases pending against it in Strasbourg. END COMMENT). The Commission's offer comes within days of the expiration of the ECHR's 6-month deadline, and was made despite the fact that Arrestis has refused to file a claim with the new body. According to one Turkish Cypriot expert, the Commission hopes this will give the ECHR "something to chew on" when it considers whether Turkey's subordinates have complied with the 2005 Arrestis ruling.

¶5. (C) Even before the compensation offer was made, however, Arrestis's lawyer Achilleas Demetriades said his clients would accept nothing less than full restitution. He has publicly rubbished the "illegal" Turkish Cypriot Property Commission, expressing doubts that it can provide restitution sufficient to comply with the ECHR order. (COMMENT: In the Arrestis case, this is certainly true since the plaintiff's property lies inside the closed military zone of Varosha -- and is

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therefore off limits, both physically and according to the new law. END COMMENT.) In an off-the-record conversation with us after the Commission's announcement, Demetriades acknowledged his clients had received a written offer of just over a million dollars in compensation, but said they would stick to their guns and hold out for restitution. Although he declined to comment further, Demetriades's strategy appears to be based on the assumption that the ECHR will declare anything less than full restitution to be an insufficient remedy in his client's case.

ACHILLEAS FINDS AN ACHILLES' HEEL?

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¶6. (C) Demetriades may be correct. The Turkish Cypriot law establishing the Property Commission limits immediate restitution only to Greek Cypriot properties that are currently unused by either Turkish Cypriot civilians or the Turkish military. Sources close to the Commission estimate that only four percent (including the plots in Tattisu offered back today) of all Greek Cypriot land in the north meets this definition. According to one "TRNC" official, the Commission made sure to include restitution offers among its first wave of decisions in order to stack the deck and encourage the ECHR to accept the Commission.

COMMENT

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¶7. (C) It is anyone's guess whether the ECHR will consider the Commission's offers of compensation and/or delayed restitution of the other 96 percent of land to be sufficient. Even if the ECHR accepts the Commission as an "effective remedy," however, the size of these first compensation offers suggest the cost of buy-outs could quickly balloon beyond the Turkish Cypriots' ability (and Turkey's willingness) to pay.

¶8. (C) Nonetheless, these developments put the Greek Cypriot leadership in a tight spot. Despite breathless public

appeals by GOC Spokesman Pasharides, who encouraged Greek Cypriots not to sell out "the national good" by pursuing "narrow personal interests," it seems likely that the trickle of Greek Cypriot applicants to the Commission will continue -- and may increase if the Turkish Cypriots make good on offers of payouts and compensation. If accepted by the ECHR, the Turkish Cypriot Property Commission could steal a bit of thunder from Greek Cypriot hard-liners. An international legal seal of approval on a Turkish Cypriot institution would be a major embarrassment for the ROC, and a political coup for the Turkish Cypriots. Whatever the ECHR decides regarding sufficiency of local remedy, the USG and others interested in pushing the parties toward an overall settlement should seek to use the decision as an argument for re-engagement in negotiations, which in the end can produce a comprehensive solution to property and other issues. END

COMMENT.  
SCHLICHER